

...(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product...

Thus, Applicants submit that the claims of Groups II, III, and IV share special technical features, necessary for unity of invention under PCT Rule 13.1.

Furthermore, the Office Action does not establish that each and every element of claim 44 is known in the prior art. Therefore, Applicants respectfully submit that lack of unity of invention has not been established, and thus a restriction requirement at this time is improper. Thus, withdrawal of the Restriction Requirement is respectfully requested.

Furthermore, the Election of Species Requirement is strongly traversed since it is contrary to PCT rules. For example, Article 27 of the Patent Corporation Treaty requires that: "no national law shall require compliance with requirements relating to the form or contents of the international application different from or in addition to those which are provided for in this Treaty and the regulations."

Further, PCT Rule 13 requires that claims which encompass one single general inventive concept be searched and examined in the same international application. For example, PCT Rule 13.1 states: "the international application shall relate to one invention or to a group of inventions so linked as to form a single general inventive concept."

Furthermore, PCT Rule 13.4 expressly states that: "subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention."

The Election of Species Requirement is a convention specific to U.S. National Patent Application Examination practice. PCT Rule 13.1 specifically contemplates the single examination of a group of inventions so linked as to form a single general inventive concept, and PCT Rule 13.4 specifically requires examination of species claims within a single general

inventive concept. Nothing in the PCT or its rules permits issuing an Election of Species Requirement. Any United States practice (such an Election of Species Requirement) or interpretation of the rule which is different from or in addition to the unity of practice as delineated in PCT Unity Rules 13.1-13.4 is necessarily in violation of PCT Article 27. Species practice is not provided for under PCT Rules 13.1-13.4 and is contrary to PCT Article 27, and the present Election of Species Requirement is accordingly prohibited by Article 27.

The Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement and to examine all of the species and claims in this application.

Applicants further understand, however, that upon search, examination and allowance of the elected species, search and examination will continue as to the non-elected species within the scope of the generic claims.

Respectfully submitted,


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